

REMARKS

The Official Action mailed April 28, 2009, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statement filed on August 10, 2006.

A further Information Disclosure Statement was submitted on June 11, 2009, and consideration of this Information Disclosure Statement is respectfully requested.

Claims 1-17, 19 and 20 were pending in the present application prior to the above amendment. The features of dependent claims 10-13 have been incorporated into claims 1-5, respectively. Also, claims 1-5 have been amended to better recite the features of the present invention. Accordingly, claims 1-9, 14-17, 19 and 20 are now pending in the present application, of which claims 1-5 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

The Official Action rejects claims 4, 7, 9-17, 19 and 20 under 35 U.S.C. § 112, second paragraph, asserting that the claims are "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention" and that the recitation of "'can change the contents of exposure depending on program' is unclear in meaning" in claim 4, lines 11-12, and in claim 10, lines 2-3 (page 2, Paper No. 20090423). The Applicant respectfully disagrees and traverses the assertions in the Official Action. Claims 1-5 have been amended to recite "a second exposure means capable of changing an exposure pattern depending on program." The Applicant respectfully submits that the meaning of these terms is clear to one of ordinary skill in the art and that the descriptions in the present specification make the expression clear. For example, the present specification discloses the following (page 10, lines 12-22, Figure 13; and page 16, lines 4-7, Figure 8; emphasis added):

Subsequently, contact holes in the data portion of a nonvolatile memory circuit, or contact holes in the data portion and a part of a chip are formed by exposing the resist by a second exposure means (electron beam exposure, laser exposure or the like) (FIG. 1C). A contact hole 3033 in FIG. 13 is formed in this manner. The exposure means such as electron beam exposure allows the exposure contents to be changed depending on program, therefore, a memory circuit, a chip and the like each including different memory data can be manufactured on the same substrate. In addition, an area formed by the second exposure means such as electron beam exposure occupies a small area such as the data portion of a nonvolatile memory circuit, or the data portion and a part of a chip, thus, decrease in throughput can be suppressed as much as possible.

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As set forth above, if the contact holes 801 and 804 are formed by electron beam exposure or laser exposure, the position thereof and data stored therein can be changed. For example, the contact hole 801 can be moved to the drain terminal of the TFT 705 by the change in the exposure program.

The Applicant respectfully submits that amended claims 1-5 particularly point out and distinctly claim the subject matter which applicant regards as the invention and are definite. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are in order and respectfully requested.

The Official Action rejects claims 1-17, 19 and 20 as obvious based on the combination of U.S. Publication No. 2003/0104659 to Arakawa and U.S. Patent No. 6,617,172 to Usami. The Applicant respectfully submits that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2144.04, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims, as amended. Independent claims 1-5 have been amended to recite a first exposure means having any one of a mirror projection exposure system, a step and repeat exposure system and a step and scan exposure system, which is supported in the present specification, for example, by page 10, lines 4-11, and Figures 1A, 1B and 13. Also, claims 1-5 have been amended to recite a second exposure means capable of changing an exposure pattern depending on program, which is supported in the present specification, for example, by page 10, lines 12-22, Figures 1C and 13; and page 16, lines 4-7, Figure 8. Although the Official Action broadly and without specificity asserts that claims 10-13 are included in the obviousness rejection, the Official Action has failed to address the features of claims 10-13 as previously presented or claims 1-5 as presently amended; therefore, the Official Action fails to present a *prima facie* case of obviousness.

In any event, the Applicant respectfully submits that Arakawa and Usami, either alone or in combination, do not teach or suggest a first exposure means having any one of a mirror projection exposure system, a step and repeat exposure system and a step and scan exposure system, or a second exposure means capable of changing an exposure pattern depending on program.

Since Arakawa and Usami do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Respectfully submitted,



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